

**Section III:**  
**AMENDMENT UNDER 37 CFR §1.121 to the**  
**DRAWINGS**

No amendments or changes to the Drawings are proposed.

**Section IV:**  
**AMENDMENT UNDER 37 CFR §1.121**  
**REMARKS**

**Rejections under 35 U.S.C. §112**

With respect to the rejections under 35 U.S.C. §112, first paragraph, we agree with the Examiner's interpretation of our disclosure and claims, and we have amended Claim 14 to more closely correspond with the disclosure, e.g. comparing both the self-reports and the job results to the service level agreement.

We respectfully request reconsideration of this rejection.

**Rejections under 35 U.S.C. §101**

With respect to the rejections under 35 U.S.C. §101, Supreme Court precedent, and Federal Circuit decisions, we respectfully point out that the claim as examined included at least two tangible things which were either tied to the performance of the method (e.g. the recitation of a logical device) or modified by the method (production of a human-readable report).

Please note that we have amended the claim to include modification of a computer-readable report in a computer memory, which further ties the method to a tangible machine (a computer memory) and transforms the physical state of something tangible (e.g. changes the physical state of a computer memory).

We respectfully request reconsideration of the claim as amended.

**Rejections under 35 U.S.C. §103(a)**

With respect to the rejections under 35 U.S.C. §103(a) over Benjamin in view of Main in further view of Shoquist, we respectfully disagree with and traverse each holding of the rationale for the rejection.

With respect to the citation of the "Main" reference throughout the rationale, we believe this is a typographical error and is intended to refer to "Jain" based on the cited patent number 5,893,905. If this is incorrect, we would appreciate an opportunity to supplement our reply to address the correct reference. Otherwise, this reply assumes the reference is Jain, US 5,893,905.

Neither Benjamin, Jain or Shoquist teach or suggest receipt of self-reports from an Online Transaction Processing (OLTP). Jain was held to disclose "batch jobs", which is not the same as an OLTP system in which each transaction is processed individually. For example, according to TechTarget.com as of 01/30/2009, OLTP is defined as:

OLTP (online transaction processing) is a class of program that facilitates and manages transaction-oriented applications, typically for data entry and retrieval transactions in a number of industries, including banking, airlines, mailorder, supermarkets, and manufacturers. Probably the most widely installed OLTP product is IBM's CICS (Customer Information Control System).

Today's online transaction processing increasingly requires support for transactions that span a network and may include more than one company. For this reason, new OLTP software uses client/server processing and brokering software that allows transactions to run on different computer platforms in a network.

But, according to the same source, "batch jobs" are defined as:

In a computer, a batch job is a program that is assigned to the computer to run without further user interaction. Examples of batch jobs in a PC are a printing request or an analysis of a Web site log. In larger commercial computers or servers, batch jobs are usually initiated by a system user. Some are defined to run automatically at a certain time.

In some computer systems, batch jobs are said to run in the background and interactive programs run in the foreground. In general, interactive programs are given priority over batch programs, which run during the time intervals when the interactive programs are waiting for user requests.

The term originated with mainframe computers when punched cards were the usual form of computer input and you put a batch of cards (one batch per program) in a box in the sequence that they were to be fed into the computer by the computer operator. (Hopefully, you got the output back the next morning.)

We believe that those ordinarily skilled in the art recognize a fundamental difference between a transaction-oriented mode of computing such as OLTP, and a batch-oriented mode of computing such as a batch job. Since Benjamin, Jain or Shoquist are silent regarding OLTP, we request allowance of our claims.

Benjamin, Jain and Shoquist are also silent regarding determining sub-ratings selected from a group comprising percentage of jobs completed, percentage of jobs completed within specified time constraints, an interactiveness rating, and a cost compliance rating. It was held that Benjamin teaches a sub-rating based on results accuracy, which we have deleted from the presented Markush group. Results accuracy is not the same as percentage of jobs completed, percentage of jobs completed within specified time constraints, an interactiveness rating, or a cost compliance rating.

Please note also that we have amended the second element of Claim 14 to include a functional responsive link between the first element and the second element which is not taught by either Jain or Benjamin. While Jain and Benjamin are held to teach these elements and limitations separately and in different relationships to each other, neither Jain nor Benjamin teaches this functional relationship between these two steps.

For these reasons, we respectfully request allowance of Claim 14.

#### **New Claims**

We are presenting new claims 40 - 43 which correspond to the steps and limitations presented in Claim 14, although they are directed towards computer memory and system embodiments according to our invention. We respectfully request allowance of Claims 40 - 43.

**Request for Indication of Allowable Subject Matter**

We believe the present amendment places the remaining claim in condition for allowance. If, for any reason, it is believed that the claim is not in a condition for allowance, we respectfully request constructive recommendations per MPEP 707.07(j) II which would place the claim in condition for allowance without need for further proceedings. We will respond promptly to any Examiner-initiated interviews or to consider any proposed examiner amendments.

Respectfully,

*/ Robert Frantz /*

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